SLAVERY EXTENSION AND PROTECTION—ITS TENDENCIES AND DANGERS.

SPEECH

OF

HON. DANIEL CLARK,

OF NEW HAMPSHIRE.

Delivered in the Senate of the United States, February 20, 1860.

Mr. CLARK. Here, Mr. President, is a series of six resolutions presented by the Senator from Mississippi. There are many things in them in which I do not entirely concur; there are some things in them from which I entirely dissent; but I propose, at this time, to confine myself entirely, or almost entirely, to the fourth resolution of the series. It is this:

"*Resolved*, That neither Congress nor a Territorial Legislature, whether by direct legislation or legislation of an indirect and unfriendly nature, possess the power to annul or impair the constitutional right of any citizen of the United States to take his slave property into the common territories; but it is the duty of the Federal Government there to afford, for that as for other species of property, the needful protection; and, if experience should at any time prove that the judiciary does not possess power to insure adequate protection, it will then become the duty of Congress to supply such deficiency."

This resolution, Mr. President, is bold and aggressive in its character; it is alarming. It calls for a species of legislation entirely new in the history of the legislation of this Government, and at variance with its past policy. But, before I proceed to discuss the resolution, I want to call the attention of the Senate to an extract from a speech made by Hon. JOHN C. BRECKINRIDGE, Senator elect from Kentucky, at Frankfort, in that State, on the 21st of December, 1859:

"In this connection, I do not hesitate to say that the aim of every good citizen should be to keep the question of slavery out of Congress. Its agitation there has been productive only of evil to us, and that continually. In the present condition of public affairs, I can see no motive to thrust the Territorial question on the Congressional arena, that has its origin in a feeling of loyalty to the Union. At present, the slavery question, in this aspect of it, is not before Congress. *No Southern Senator or Representative proposes legislation upon it.* No complaint of violated rights comes from any Territory. No evidence is offered that the Constitution, the laws, and the courts, are not competent to protect personal right and private property. Hence, while I would never abandon a constitutional right, especially after it had been judicially determined, I never would prematurely raise any question to distract the country, when no voice demands it, North, South, East, or West."

I have read this extract, not to blame the honorable Senator from Mississippi [Mr. DAVIS] for introducing these resolutions, nor to blame the other Senator from Mississippi [Mr. BROWN] for introducing certain resolutions which he presented, nor to blame any Senator for introducing any resolution; nor do I do it to put the honorable Mr. BRECKIN-

RIDGE in the position of blaming those Senators, when he said that no *Southern* Senator asks for legislation on the subject of slavery in the Territories. That is not my object. I do it for the purpose of calling the attention of the Senate to what I call the modern history of slavery agitation in this country, going back for the last ten years, and for the purpose of correcting what I think is an erroneous impression, that the Northern people, and especially the Republican party, are responsible for the agitation of the slavery question in Congress. I ask the attention of the Senate and of Senators to the position of affairs now, and to the progress of affairs since 1850, the time when the compromise measures were introduced into Congress. At that time Mr. Webster said, in a speech which he made on the 7th of March, 1850, that the question of slavery was settled in every foot of the territory that then belonged to the United States. This is his language:

"And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not, at this moment, within the United States, or any Territory of the United States, a single foot of land, the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrepealable law, beyond the power of the action of this Government."—*Congressional Globe, Thirty-first Congress, first session, part I, vol.* 21, *p.* 479.

To this proposition of Mr. Webster, both the Democratic and Whig parties agreed.

But if every foot of the territory of the United States was then fixed by an irrepealable law, as regards its being free territory or slave territory, what has been the necessity of any agitation of the question of slavery in Congress, in regard to the Territories, since that time? What did you do, sir, and what has been done? I speak now of the Democratic party. In 1852, in the Convention of the Democratic party, it was resolved that slavery agitation should be kept out of Congress; and yet, in the year 1854, when they came into Congress, the Democratic party commenced agitation, by the repeal of the Missouri compromise, and threw the whole country into commotion on that subject. I may say that the Republican party is the child of slavery agitation in Congress; it was brought into existence by the repeal of the Missouri compromise, and the repeal of the Missouri compromise was carried through, advocated, and perfected, by the action of the Democratic party in Congress.

What was next done? In 1856, the same Democratic party, meeting in Convention, by its delegates at Cincinnati, resolved the same thing over again, that there should be no more agitation on the subject of slavery in Congress. Here is the resolution:

"That the Democratic party will resist all attempts at renewing, in Congress or out of it, the agitation of the slavery question, under whatever shape or color the attempt may be made."

That was in 1856. In 1850, you resolved that you would have no agitation. In 1852, you resolved that you would have no agitation. In 1854, you had agitation, and repealed the Missouri compromise; and in 1856, you resolved again that you would have no agitation; and in 1857, and the first part of 1858, you brought in your Lecompton Constitution, obtained over the people of Kansas by fraud and oppression, and you began to agitate again; in 1858, you brought in your Cuba question, and began to agitate again; and then, in 1859, you brought in your resolution of investigation; now you bring in these resolutions; and so you agitate from year to year, *while from year to year you resolve that you will not agitate.* The Democratic party put forth in their resolutions that they will not agitate the question of slavery; yet, here, from month to month, from session to session, they are continually bringing forward measures for its agitation; and these resolutions are here, not from the Democratic party as a party, to be sure, but from members of the Democratic party. I find no fault with their action; I only design to show what has been the course of the Democratic party on this subject, and that the Republican party

is not to blame or responsible for the agitation.

Mr. President, I have observed one thing in the history of this slavery agitation: that whenever the Democrats, by their delegates, go into a Convention on the eve of a Presidential election, *they say they will have no agitation*: but when that occasion is past, and they come into Congress, they are *the very people to agitate the question*. I do not know now but that, when the delegates of the Democratic party go down to Charleston this year, they will again resolve that there shall be no agitation. Most probably they will; and when they return here, these questions will be renewed and carried forward.

But to return to the resolution. I said this resolution was bold and aggressive. I said it was alarming. I said that it sought for legislation so much at variance with the history and policy of the Government in regard to the Territories, that it should command the attention of the country. When you proposed to establish the Missouri compromise, in 1820, slavery was timid and cautious. It did not seek for the whole territory. It said: "Grant us Missouri as a slave State, and from the territory north of 36° 30′ north latitude, slavery shall be entirely excluded forever. Give us this small part; you may take the rest. When you wanted to secure the annexation of Texas, and its admission into the Union as a State, you did not say that Texas should forever be doomed to slavery. You said, let it come in as a slave State, and then there shall be new States formed out of it—not more than five, nor less than three; and as to all that portion of Texas which is north of 36° 30′, it shall be free territory; and as to the new States which may be formed out of it south of 36° 30′, they shall be slave States or free States, just as the people inhabiting them may desire. Slavery, then, was cautious—timid; not so bold as now. When you desire to erect Territorial government in the territory acquired from Mexico, you did not say, as you say now, that slavery goes into every foot of that territory. You did not say, if the laws are not sufficient there to protect it, the courts or Congress must protect it; but you said, let that territory stand; it is to be governed by climate, and by geography, and by its productions. It is fixed, said Mr. Webster, by an irrepealable law, and slavery never can go there.

But, sir, experience has shown that Mr. Webster was not right; that the law of climate and of geography and of production, which he cited, was not sufficient to control the institution in that country; and in spite of climate, in spite of geography, in spite of production, and in spite of nature, and, I had almost said, in spite of the Sovereign Ruler of the Territory, slavery has gone there; and the Territorial Legislature of New Mexico have passed a code of laws which I do not hesitate to say are barbarous—a disgrace to civilization and to humanity.

So too, sir, when you repealed the Missouri compromise, you did not do it boldly. You did not say, "We wish slavery to go into the territory north of 36° 30′ north latitude." You said, "We do not wish to extend slavery; and it never will go there, unless some household servants are carried there." By indirection, by persuading the people of the country that the settlement of the question was to be left to the inhabitants of the Territory, you repealed the Missouri compromise. Now, sir, six years afterwards, slavery has grown bold; it walks erect, and its supporters say, "We must be allowed to carry our slaves into the Territories, every inch and every foot of them, if we desire. We have a right under the Constitution so to carry them there, and the Congress must pass laws to protect our property there."

You see, Mr. President, how bold this institution has grown—what its practice is now, compared to what it was formerly. Now, it seeks directly to appropriate the whole territory to itself. It seeks all the territory from the Rio Grande to the British possessions, from the Gulf of California to Puget Sound,

from the western line of Missouri to the Pacific. It does not seek to divide the territory now as formerly, but it grasps the whole; up the rivers, over the mountains, and down into the valleys; in the sunny South, and in the ice-ribbed North; upon the arid and barren centre, and upon the fertile slopes; wherever a white man may go, slavery seeks to accompany him. Briareus-like, with its hundred arms, it grasps the entire territory of the United States Government.

But, Mr. President, not only is the doctrine of this resolution bold, but it is alarming—alarming, because it makes another step in the progress of the slave power. At first, freedom claimed and was granted the whole. When the Government was founded, the fathers of the country, the framers of the ordinance of 1787 and of the Constitution, restricted slavery, and prohibited it from all the territories of the United States, unless it might be a certain indefinite portion ceded by South Carolina. In 1820, when you established the Missouri compromise, slavery claimed a part, but was willing to yield the most. She claimed to have Missouri come in as a slave State; but as to all that territory north of 36° 30′, she yielded it forever as free territory; and as to the territory then left south of the line of 36° 30′, nothing was said, whether it was to be slave territory or free territory. Mr. Clay, in his speech in 1850 on the compromise measures, maintained that, even as to that territory south of the line of 36° 30′, slavery could not go there. I will read an extract from that speech, because it serves to show how much the slave power has advanced since that time. I read from the speech of Mr. Clay made on the 22d of July, 1850:

"I am aware that there are gentlemen who maintain that, in virtue of the Constitution, the right to carry slaves south of that line already exists, and that, of course, those who maintain that opinion want no other security for the transportation of their slaves south of that line than the Constitution. If I had not heard that opinion avowed, I should have regarded it as one of the most extraordinary assumptions, and the most indefensible position that was ever taken by man. The Constitution neither created, nor does it continue, slavery. Slavery existed independent of the Constitution, and antecedent to the Constitution; and it was dependent in the States, not upon the will of Congress, but upon the law of the respective States. The Constitution is silent and passive upon the subject of the institution of slavery; or, rather, it deals with the fact as a fact that exists, without having created, continued, or being responsible for it, in the slightest degree, within the States."

Now, instead of, as in 1820, taking a portion of the territory, and having it admitted as a slave State, and yielding the rest of the territory to freedom, slavery claims the whole territory. That is the doctrine of this resolution; that there is a constitutional right, on the part of the slave master, to take his slave and go with him anywhere into the territory of the United States, and hold him there as a slave; and if the laws are not sufficient now for the purpose of holding him there, this Government is bound to provide laws sufficient to hold him there. I say the doctrine is alarming to the free States, because the next step will be to claim that the slave may go into the States where slavery is not tolerated by the law of the State, as well as into the Territories, and that Congress under the Constitution, which is the supreme law, must protect him there. This point, I think, is easily maintained—indeed, the position seems to me impregnable—that if, under the Constitution and by virtue of it, the slave owner may carry his slave into the Territories, and Congress must protect him there, he may equally carry him into any of the free States, and Congress must *protect him there*. The Constitution extends over *States* as well as *Territories*—is as supreme over one as the other; and the States cannot by any law of theirs defeat it in the exercise of any of its proper functions or powers.

Let us trace the doctrine a little further in its progress. In 1854, when you enacted the Kansas-Nebraska bill, you maintained that the jurisdiction should be left to the people over the subject of slavery; that if they wanted slavery, they should have it; if they did not want it, they should not have it; the people of the Territory were to de-

cide for themselves. Do you hold that doctrine now? No, sir. It is now distinctly avowed that the people of a Territory cannot, at any time, restrict slavery from the Territory. They can only do so when they come to form a Constitution for admission as a State. I want some gentleman who understands, and who has looked at the matter, to answer me these questions. If the people of a Territory have power over slavery when they form a State Government, where do they get it? Does Congress grant them the power? But you deny that Congress has any jurisdiction over slavery in the Territories. Congress has no such power to grant. Is it inherent in themselves? If so, why cannot they use it before they form that Constitution? I want somebody to answer me this other question: If the Constitution carries slavery into the Territories, and is, in that respect, the supreme law of the land to protect slavery there, so that the people of the Territory cannot abolish it, where do the people of the Territory get the power to override the Constitution? It is the supreme law of the land. Then, if they possess no power to override the Constitution, I want you to tell me where the people of a State, when they are admitted as a State, get the power to exclude slavery? The Constitution, according to your doctrine, carries slavery in its hands, and bears it forward and protects it. Where, then, do the people get the power, in any State, to abolish it? The Constitution is the supreme law of the land in a State, just as much as it is in a Territory. There is no difference made in the Constitution, as regards the efficacy of the powers of the Constitution and the laws of Congress under it, between a State and a Territory. It does not say that you shall be able to restrict slavery in a Territory, and not in a State. The Constitution is supreme both in Territory and in State. The cause of alarm is here: you said, five years ago, that the people of a Territory, at any time, might exclude slavery. You say now, they can only exclude it when they are admitted into the Union as a State. Will you not, two years hence, or four years hence, say that no State can exclude it; and will you not say that the slave master has a right to take his slave from Virginia, and go into Massachusetts or New Hampshire, and hold him there? Will you not say that the Constitution acknowledges the slave as property, treats him as such; and that we have no right to abolish your right of property in a slave? Will you not say that you have a right to go there, and take your property into the States, although they were admitted into the Union at the time of the formation of the Government?

I say, then, Mr. President, the people of the free States have great cause for alarm. The progress of slavery has been directly towards the end which I indicate—not only to uphold slavery in the Territories, but, by and by, it will be to uphold it in the free States against the will and laws of those States. I am not left without authority on that subject, and I desire to call the attention of the Senate again to the same speech of Mr. Clay from which I before read, in which he maintains the doctrine, that if the Constitution protects and defends slavery in the Territories, it must be admitted that it equally protects and defends it in the States. He says:

"If the Constitution possess the paramount authority attributed to it, the laws of even the free States of the Union would yield to that paramount authority."

And, speaking of the admission of California into the Union at that time, he says further, in the same speech:

"Why, if the Constitution gave the privilege, it would be incompetent for California to adopt the provision which she has in her Constitution."

That is, if the Constitution gave the privilege of holding slaves in California, it would be incompetent for the people of California to adopt a provision in their Constitution restricting slavery.

Now, Mr. President, it is claimed that the Constitution carries slavery into the Territories, or that under and by virtue of the Constitution the slaveholder may take his property in

slaves into the Territories; and if this position is yielded, and becomes established under this Government, the day is not far distant, in my judgment, when slavery will claim extension into the old States, over which the Constitution is the supreme law.

The latter will follow the former as certainly as the conclusion does the premises; the outpost gained, the assault upon the citadel will be certain and speedy; and the time may come, when the slave master may be adjudged under the Constitution, interpreted by a court composed of a majority of Southern judges, to have a right to hold his slaves upon the battle-fields of Lexington or Bunker's Hill, where patriots fell for freedom!

I was saying, Mr. President, when I was interrupted, that it is a part of the political history of the country, which every intelligent man knows, that some of the men who aided to form our Constitution—and the men who, from their position, might be best supposed to know what was intended by its provisions—adopted the ordinance of 1787, and extended it over the Northwest Territory. It was the institution of a Government for the Territories; not for a Territory in particular, but for the Territories of the United States, out of which several new States were to be at some time formed. It was the beginning; and at that beginning they excluded slavery from all that region of country, except for the punishment of crime, which was from all the territory to which the United States had then any exclusive claim. There had been a cession made by the State of South Carolina, I believe, at that time; but what its boundaries were could not be precisely ascertained. There was no political cant, then, that slavery was "before and above all law and Constitutions," nor that it rested on the same foundation as other property. These men said "there *shall be* neither slavery nor involuntary servitude in the said Territory." This was in the Congress under the Confederation; and it is remarkable that one of the articles of this ordinance (to wit: the fifth) made provision for the admission of not less than three nor more than five new States, which new States were at liberty to form permanent State Governments, "provided the Constitution and State Government so to be formed shall be republican, *and in conformity to the principles contained in these articles*"—that is, shall exclude slavery; and this article the Assembly of Virginia ratified and confirmed, reciting it *verbatim* in the act of her Assembly, on the 30th day of December, 1788.

The fashionable doctrine now is, that when a State comes to Congress for admission, Congress has nothing to do but to look at her Constitution, and see that it is republican in its character, and then admit the State; but in this instance, and by this ordinance, the Congress of the Confederation provided that the State not only should adopt a Constitution republican in its character, but it should make a Constitution conformable to that ordinance, and should exclude slavery from the State by its Constitution. Virginia, when she passed the act reciting the provisions of the ordinance, and assenting to it, had not learned the doctrine, that African slavery was right, *and that it ennobled either race—the white man or the African*. She sought not to extend it, but ratified and confirmed the act which excluded it from the States to be formed out of the vast territory which she had ceded for the common good of all the States.

Thus the Congress of the Confederation formed the earliest system of government for the Territories; Virginia ratified and confirmed it; and the first Congress under the Constitution, by the act of August 7, 1789, in order that it might continue to have full effect, adapted it to the Constitution. *Where was squatter sovereignty then?* Did the founders of the Government say, "We will leave it to the people of the Territory to decide whether they will have slavery or not?" Did they say that "When the State comes in with her Constitution, we will leave it to the people to adopt a restriction on slavery in

the Constitution or not?" Certainly not. It was one of the provisions by which they could come into the Union, and to which they were confined, that they should restrict slavery and keep it out of their Territory by the Constitution of the State. The framers of the ordinance said it shall "not be extended into this Territory." I need scarcely refer to the action of Congress afterwards, in 1803, in regard to the Territory of Indiana, when the people of Indiana petitioned for the right to hold slaves. Congress refused them that permission. The action of Congress upon that subject is to be found in the American State Papers, Public Lands, volume I, page 160, and also page 68; and in the last instance, Mr. Randolph, of Virginia, made the report.

Indulge me with this short extract only:

"The committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the Northwestern country, and give *strength and security* to that extensive frontier."

Do you tell me, Mr. President, that the ordinance of 1787 was adopted under the Articles of Confederation, and not under the present Constitution, and that the state of slavery under the Articles of Confederation might be one thing, and its state under the Constitution another; that under the Articles of Confederation Congress might have power to prohibit it, and under the Constitution not have power to prohibit it? Then, I say to you, sir, that Congress, after the adoption of the Constitution, by the act of August 7, 1789, (one of the earliest of the acts under the Constitution,) adopted this very ordinance, so altering some of its provisions as to adapt it to the Constitution. They repeated it also, May 20, 1790, in the case of Ohio. They repeated it May 7, 1800, in the case of Indiana. They repeated it January 11, 1805, in the case of Michigan. They repeated it May 3, 1809, in the case of Illinois. They repeated it in the case of Wisconsin; and again, March 6, 1820, in the passage of the Missouri compromise. They repeated it again, June 12, 1838, in the case of Iowa; and again, August 14, 1848, in the case of Oregon; and again, March 3, 1849, in the case of Minnesota. In every one of these cases they referred to that ordinance, carried some portions of it over the Territory, and excluded slavery.

Thus, Mr. President, for sixty years, by these acts, did the Congress, under the Constitution, restrict slavery from the Territories; and now we have, as the modern doctrine, the assertion that all that legislation for sixty years was unconstitutional, at variance with the Constitution; that there was no power to restrict slavery in the Territories by the Constitution; but that, on the other hand, the Constitution carried slavery into all of them, and should protect it there.

But, Mr. President, there is another class of instances besides these, much to my purpose. The doctrine claimed here is, that if the law of the Territory is insufficient, or if the courts are inadequate to protect property in slaves, Congress should do it; it is the *duty* of Congress to do it; and there is no distinction made in such property, whether born here or imported; the claim is the same. The first of the instances to which I now refer is the act of May 26, 1790, for the government of the territory of the United States *south* of the river Ohio. This act referred to another of April 2, 1790, accepting the deed of the cession of land by North Carolina. In that deed of cession, dated February 25, 1790—after the passage of the ordinance of 1787, and after its adoption by the act of Congress of August 7, 1789—there was this remarkable proviso:

"That no regulation made, or to be made, by Congress, shall tend to emancipate slaves."

Now, this is the point of the argument in this instance. North Carolina well understood, that, under the Constitution, Congress held the power to exclude slaves from the Territory, and might exercise it, unless she provided against it in her deed of cession, as she did. *There was no pretence then, that a master could carry his slave there, and*

that Congress was bound to protect him under the Constitution. The fear was, that, under the Constitution, Congress would exclude him; and hence the proviso.

The next instance was the establishment of the Territory of Mississippi, in April, 1798. By that act, the President was "authorized to establish therein a government in all respects similar to that now exercised in the territory northwest of the river Ohio, excepting and excluding the last article of the ordinance;" and the people were entitled to all its immunities and privileges. The importation of slaves was prohibited under a pecuniary penalty, and the slave so imported *set free*. There was no provision for *the protection* of slaves in this act.

March 26th, 1804, the Territories of Orleans and Louisiana were established. No special provision was made in that act for the *protection* of slaves; but, on the contrary, no *citizen of any State could carry a slave into the Territory of Orleans, unless he actually owned the slave, and was going there to settle*. It debarred all others from the Territory, and declared every slave brought in against the provisions of the act *entitled to freedom*. Here was a direct acknowledgment of the power of Congress to exclude slaves; for if it could exclude a part, it could exclude the whole. And here, too, is the declaration of the law, that the *slave should be free* if brought in contrary to the provisions of the law. They *prohibited the master from carrying the slave there, and declared the slave free if he did.*

Then there was the act of March 4, 1805, erecting the Territory of Orleans. It extended over the Territory the ordinance of 1787, except the second paragraph respecting descent of estates, and the sixth article of the compact. It also imposed restrictions upon the formation of a Constitution. If Congress could impose the restriction that the Constitution should not be repugnant to the ordinance of 1787 in one particular, why not in all?

Next came the act of June 4, 1812, in regard to the Missouri Territory. Here power was granted to make laws in all cases for the good government of the people. No man was to be deprived of life, liberty, or property, but by judgment of his peers. There was nothing in that act *protecting* slave property, nor was it claimed at that time that the Constitution carried slaves, or that Congress was bound to protect them there.

Then came the act of March 3, 1822, in regard to Florida, which granted to the Territorial Government power to legislate upon all rightful subjects of legislation. The New Mexico and Utah acts of September 9, 1850, required the laws passed in those Territories to be submitted to Congress, and gave the Territorial Legislatures power over all rightful subjects of legislation. The act of March 2, 1853, establishing Washington Territory, granted power to the Territorial Legislature to pass laws in regard to all rightful subjects of legislation. There was no provision for the *protection* of slavery in any of these acts.

The next was the Kansas-Nebraska act, of May 30, 1854, which did not legislate slavery into the Territory, and did not legislate slavery out of the Territory; but it did not pretend that the Constitution carried slavery into the Territory. There was no claim made then for the *protection* of slavery in the Territory under the Constitution.

Mr. President, no Territory in which slavery was permitted by the organic act has ever become a free State, that I am aware of; and no Territory from which slavery was excluded has ever become a slave State—a most instructive experience in the history of the Government.

But, sir, bold, alarming, and contrary to the policy and history of the legislation of this Government, as the doctrine of this resolution is, if it is to be seriously contended for and adopted by the Democratic party, as it will be if the South demand it, I am glad it is here. In the language of one of the Senators from Mississippi, "We do not want to cheat or to be cheated." Let

us understand each other. The Democracy, at least the Southern wing of it, and a portion of the Northern, declare that the Constitution carries slavery into all the Territories of the United States, or, what is equivalent, that, under the Constitution, the slave master has a right to take his slave into a Territory of the United States; and if the laws there are not sufficient to protect him in the enjoyment of that so-called right of property, the people of the Territory should pass laws to secure it; and, the people of the Territory failing to do it, Congress should do it, unless the courts should have sufficient power; thus making Congress *the guardian and protector of slavery in all the Territories* of the United States; in fact, establishing it there.

From this construction of the Constitution the Republicans dissent. To this office of Congress, as founder and protector of slavery, they object. To prevent the extension of slavery into the Territories of the Federal Government, is a cardinal object with the Republican party. The repeal of the Missouri compromise, which had stood as a sentinel for more than thirty years to guard the territory north of 36° 30′ north latitude from the aggressions of the slave power, revealed its design to spread slavery into all the Territories of the Union, and roused the determination in millions of hearts to prevent it.

From that determination, like Minerva from the head of Jove, fully matured, and armed with unflinching purpose and iron will, the Republican party sprang into existence to prevent the accomplishment of that design. Stigmatizing it as a "relic of barbarism," it avows its purpose to confine it in its present limits; and if then it shall become unprofitable, "be smothered," to use the language of the Senator from Illinois, [Mr. Douglas,] and "die out," it will only the sooner bring the accomplishment of the earnest desires and expectation of the founders of this Government. They will rejoice at it.

To prevent the extension of slavery in the Territories, I have said, was a cardinal object of the Republican party; but when I say this, I deny that it attempts or seeks to attempt, by any action of the General Government, to interfere with it in the States where it exists. It is a matter beyond the control of such action. But let it be understood also that vast numbers of those who comprise the Republican party, and of those who sympathize with it, deny the right of any man or body of men to hold or establish property in man; and they will discuss the institution of slavery, and hold it up as a moral, social, and political evil, as ruinous to the prosperity and population of the States where it exists, as a clog to their progress, as an enemy to the Union, and a reproach to free Governments; and, therefore, an evil to be excluded from the Territories. They will discuss it, because it is sought to be extended. They do not forget nor underrate the force of public opinion; they know that Legislatures and States acknowledge its power, and are swayed and controlled by it; that neither Virginia nor Mississippi will long have slaves, when public opinion demands their emancipation. They will, therefore, labor to guide and strengthen that public opinion, by the school, the pulpit, and the press; by writing, and by oral speech; by the public journal and the periodical; by the exhibition of the benefits of free labor, and by every proper means, until the master himself, seeing the vast benefits of free labor, and the rapid progress of free States, feeling the force of the fundamental axiom of Jefferson, "that all men are entitled to life, liberty, and the pursuit of happiness," and knowing the manifold injustice of a system which is evil, and "that continually," shall remove the "hooks of steel" which have "grappled" slavery to the social and political system.

In the language of Mr. Webster, in 1847, and repeated in his 7th of March speech of 1850:

> "We are to use the first, and last, and every opportunity which offers, to oppose the extension of the slave power."

Make slavery extension and protec-

tion in the Territories the issue, and we will meet you upon it. Take a slave code for your platform, or make it a plank in it, and you will convert it into a plate of red-hot steel, upon which no Northern man can stand. Reveal and publish such to be your purpose, and the history of the end of Northern Democracy shall be as short and graphic as that of the Chaldean monarch—

"In that night was Belshazzar, the King of the Chaldeans, slain."

I come now, Mr. President, to speak of the power of Congress, under the Constitution, to protect slavery in the Territories. I deny that it has such a power. I deny that, under the Constitution, and by virtue of the Constitution, the slave master derives any right to take his slave into the Territories. If he has that right, it is before the Constitution, and independent of the Constitution. Let us look, for a moment, at what was the condition of things at the formation of the Constitution. The history of the times may afford us some light in coming to a correct conclusion on this subject. There were then thirteen States, in most of which slaves were held, which had been united under the Articles of Confederation. I say, in most of these States slaves were held, held by virtue of local law, or local custom having the force of law. It did not exist by the common law, but by the local law; and it is a little remarkable that, whatever else may have been decided in the Dred Scott case, the judges, who were the majority of the court, who gave that opinion and concurred in the reasoning of the Chief Justice, did not undertake to say that, by the common law, a slave could be held, or to overthrow a prior decision of the Supreme Court that a slave was held by the local law. Each State held it, for itself, under its own laws or by its own customs. Virginia held it by her laws or by her customs, and when a slave went out of Virginia into Maryland, or was carried into Maryland, he was then held by the laws of Maryland; and, if carried into North Carolina, held by the laws of North Carolina. If carried to a free State, he became free, because there was no law to hold him, unless it was permitted there by sufferance.

In this state of things, the Constitution was formed. Did the Constitution alter the condition of the slave in the States? Did it enact any provision which altered his condition? Did it confer any new power upon the master, or restrict the master in any exercise of authority over his slave? Did it make any provision by which the slave should be carried from one State into another, or from one Territory into another? Not at all. There are in the Constitution only four provisions concerning slaves. The first is to be found in article first, in the second section, and third paragraph. It is that which relates to representation and taxation, and the provision by which "three-fifths of all other persons" are to be included for taxation and representation. I do not deny that it referred to slaves; but do you find any provision there which can, by any system of reasoning, or by any logic, give to the master the right to take his slave from a State into a Territory, and have Congress protect him there? Let us bear in mind what is always necessary in interpreting the provisions of the Constitution, that it is a Constitution of delegated powers. Congress can do nothing that is not delegated directly or impliedly to it; all other powers are restricted to the States. Now, if here directly you find that Congress has power delegated to it to enact laws protecting slaves in the possession of their masters in the Territories, I grant it. If you find any such implied power, I grant it to you; but I say it is here neither directly nor indirectly, and cannot be drawn from any granted power. The next provision is that of section nine:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808; but a tax or duty may be imposed on such importation."

I understand that it has been argued that the Constitution by this provision guarantied to the States the right to im-

port these people until 1808. If that were material to the argument, I should deny it, because these thirteen States were together forming this Constitution; they were delegating powers to the Federal Government; they said, in fact, "we will not give to the Federal Government power to prohibit the importation of slaves until 1808; as to certain of the States, we will withhold that power, we will manage and control it ourselves, and Congress shall have no power over the subject." It was nothing granted to Congress. It was a withholding of power. From a withholding of power you cannot well argue a guaranty; but it is simply saying, we reserve to ourselves power in the States to import these people until 1808. Do you find in that provision any authority on the part of Congress to pass laws protecting slaves when they are carried into the Territories, when the local laws are insufficient?

The next provision in the Constitution on the subject is in article four, section two, paragraph three. It is a very familiar one—one often cited and commented upon:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

Here is a direct example that the founders of the Government, the makers and framers of the Constitution, treated slavery as a local institution. "No person held to service or labor in one State, *under the laws thereof*"—not under the Constitution, but under the laws of that State—"escaping," &c., shall be set free by the *law of the other State*, but he shall be delivered up. Is it claimed that, by this provision that a fugitive slave shall be returned into the State from which he escaped, you get the power to protect a slave in a Territory, when he is carried there by his master? I think the argument is strongly and clearly the other way. The only power delegated in that particular was, that if he did escape out of the jurisdiction of the State, where the State laws did not reach him, into another State, where there was a different law or regulation, he should not be set free by virtue of that regulation, but should be delivered back to the State from whence he came.

The next allusion is in article five, at the close of the article:

"*Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article."

Referring to the article which provides that Congress should not prevent the immigration or importation of certain people prior to 1808. These are the only clauses which I find in the Constitution relating to slaves. It is very true, the word "slaves" is not used here. They are spoken of as "persons held to labor," or "such persons as the States may think proper to import," or "three-fifths of all other persons;" but I grant that the Constitution there refers to slaves held in the various States. Can any person who interprets the Constitution by the ordinary rules of interpretation, who has a knowledge of its formation, and of the history of the Government and of the country at the time of its formation, say that either of these provisions authorizes the slaveholder to take his slave into the Territories of the United States, and have him there *protected* by a law of Congress passed under this Constitution? for that is the claim. I say that Congress has no such power. I am aware that there are other provisions of the Constitution under which this power might be claimed. I am aware of the provision that Congress may make "all needful rules and regulations" with regard to the territory; but I understand that the Supreme Court, in the decision to which I have referred, has said that that provision of the Constitution does not apply to the present Territories of the United States; it only applied to the territory which the Government had at the time of the formation of the Constitution.

I understand them further to intimate

the opinion—I will not say that I agree in that opinion—that the words "rules and regulations" are not sufficient to convey political power, and that thereby the Constitution did not convey the power to govern the Territories and to exclude slavery therefrom. I am aware, also, of the further provision of the Constitution, that Congress may admit new States. I am aware, also, that Congress has the power to govern the Territories before they become States, in its discretion, for the purpose of forming new States. I am aware that it may be contended that Congress, under the power to form new States, may establish slavery in the Territories; but I deny the power, I do not think it can ever be held to be needful, to establish slavery in a proposed new State. I do not believe it can be held to be for the prosperity of any Territory or State to establish slavery in it. Slavery is not a bond of strength in any Government. It is an element of weakness and discord. Who does not see that if slavery did not exist in some of these States, if legislators did not seek to extend it to the Territories of the Government, the great disturbing force of this Union would not exist? Slavery is an enemy to the Union. Let it cease its assaults upon the Union, and it will receive no threats or blows which would endanger it from any quarter.

Mr. President, since this session commenced, these Halls have rung with disunion speeches and sentiments. Senators and members of the House both have uttered them. Sometimes, in their violence, they have seemed to strive to excel each other in the race. In the language of the turf, many have come within "three minutes;" while others have gone over the course in less than "two forty." Some, like Ethan Allen, have appeared on the track larger than anywhere else; while others, like the old English Eclipse, had such a thick wind, and roared so terribly, that it was difficult to tell which would come first to the end, *the nag or the race.*

I have here, in my hands, specimens of the speeches of these honorable Senators and members. I have cut them out as they have been published in the *Daily Globe;* and if any member will take the pains to read, he will not find a solitary threat from anybody except some slaveholder, or some Senator or Representative of a slave State. There is no threatening of the Union from any other quarter. Then why, in the new States, do you want to adopt slavery? It is an element of weakness, of discord, and of disunion; and I say *it is a sound exercise of discretion on the part of Congress to exclude it from the new States and Territories.* I will give these specimens:

The Senator from Georgia [Mr. TOOMBS] declared that—

"The success of the Black Republican party would be a cause for secession. The South would never let the Republicans get hold of the reins of Government. *War was already declared and blood shed!*"

Hon. D. C. DE JARNETTE, Representative from the third Congressional district in Virginia, said, in a recent speech in the House, in reference to the election of Mr. SEWARD:

"You may elect him President of the North; but of the South, never. Whatever the event may be, others may differ; but Virginia, in view of her ancient renown, in view of her illustrious dead, in view of her *sic semper tyrannis*, will resist his authority. I have done."

Mr. PRYOR, of Virginia, in a speech delivered December 8, 1859, in the other house said:

"We have threatened and resolved, and resolved and threatened, and backed out from our threats and recanted our resolutions, until, so help me God, I will never utter another threat or another resolution; but, as the stroke follows the lightning's flash, so, with me, acts shall be coincident and commensurate with words."

Mr. GARNETT, of Virginia, said, December 8:

"You must pass laws at home condemning and subjecting to the hands of justice the men who advise and the men who plot and the men who engage in these insurrectionary attempts. You must do for us what we do for foreign nations, and what they do for every country with which they are at peace. Unless you do pass such laws, unless you do put down this spirit of abolitionism, the Union will be short."

The Senator from North Carolina, [Mr. CLINGMAN,] in a fierce disunion

speech recently delivered in the Senate, declared that—

"In his judgment, the election of a Black Republican President would furnish that cause" [of a dissolution.]

And he added:

"As from this Capitol so much has gone forth to inflame the public mind, if our countrymen are to be involved in a bloody struggle, I trust in God that the first fruits of the collision may be reaped here."

The Senator from Georgia [Mr. IVERSON] declared, December 8, 1859:

"Sir, I will tell you what I would do, if I had the control of the Southern members of this house and the other, when you elect JOHN SHERMAN, as I suppose you will, because I take it for granted that you will find traitors enough in the ranks of the Northern Democracy to elect him; you have not got the power in your own ranks, but I reckon you will take a few of the Anti-Lecompton Northern Democrats finally to do it. If I had control of the public sentiment, the very moment that you elect JOHN SHERMAN, thus giving to the South the example of insult as well as injury, I would walk every one of us out of the Halls of this Capitol, and consult our constituents; and I would never enter again until I was bade to do so by those who had the right to control. Sir, I go further than that. I would counsel my constituents instantly to dissolve all political ties with a party and a people who thus trample on our rights. That is what I would do."

Mr. DAVIS, of Mississippi, in the House of Representatives, on the 9th December last, declared:

"We are arming, but not against the Government. We are arming to put down rebellion against the Government. We are for the Government. When you presented Fremont as a sectional candidate for the Presidency, representing the system of free labor in opposition to the system of slave labor, you undertook to seize the Government for yourselves, in violation of the letter and spirit of the Constitution. In doing that, you were guilty of organizing rebellion against the Government, with a view of diverting it to purposes not legitimately its own.

"Though I am not a disunionist, yet, if cherishing that sentiment causes me to be regarded a disunionist, let it be so. I take the responsibility at home and elsewhere; and I here say, that I do not concur with the declaration made yesterday by the gentleman from Tennessee, that the election of a Black Republican to the Presidency was not cause for a dissolution of the Union. Whenever a President is elected by a fanatical majority at the North, those whom I represent, as I believe, and the gallant State which I in part represent, are ready, let the consequences be what they may, to fall back on their reserved rights, and say: 'As to this Union, we have no longer any lot or part in it.'"

So, also, J. L. M. CURRY, of the seventh Alabama district, thus defines his position:

"I am not ashamed or afraid publicly to avow that the election of WILLIAM H. SEWARD, or Salmon P. Chase, or any such representative of the Republican party, upon a sectional platform, ought to be resisted to the disruption of every tie that binds this Confederacy together." [Applause on the Democratic side of the House.]

Mr. CRAWFORD, of Georgia, said, December 16, 1859:

"Now, in regard to the election of a Black Republican President, I have this to say, and I speak the sentiment of every Democrat on this floor from the State of Georgia: we will never submit to the inauguration of a Black Republican President. [Applause from the Democratic benches, and hisses from the Republicans.] I repeat it, sir—and I have authority to say so—that no Democratic Representative from Georgia on this floor will ever submit to the inauguration of a Black Republican President. [Renewed applause and hisses.]

Mr. DAVIDSON, of Louisiana, said, December 22, 1859:

"Is not that the doctrine which these gentlemen have sent out broadcast? Have not they made up their minds that they will fight it out to the last? And do you think that I, for one, with all my veneration and affection for the Union; with all the efforts I have made to keep our people straight in the ill blood and fierce passions that have raged in our political contests in the past; I say, do you of the North suppose, under these circumstances, that I am going to stand by and support this Union, with these declarations upon the part of the North before me?"

Mr. SINGLETON, of Mississippi, said, December 22:

"If you desire to know my counsel to the people of Mississippi, it is, that they take measures immediately, in conjunction with other Southern States, to separate from you. I believe that the sooner we get out of this Confederation of States, the better it will be for us, as every day we remain with you, under such circumstances, but weakens and impairs our strength, and renders us less able to cope with you."

Mr. MOORE, of Alabama, said, January 3, 1860:

"I should consider the election of such a candidate, by a Northern sectional majority, as a declaration of war against our rights; and I rejoice in the belief that those whom I represent, and the gallant State to which I owe my first and highest allegiance, will not hesitate in such contingency, let the consequences be what they may, to fall back on their reserved rights, and declare to the world, 'As for this Union, we have no longer any lot or part in it."

Mr. BOYCE, of South Carolina, in a

speech delivered January 4, 1860, declared:

"Should this party acquire the ascendency in the Federal Government, the Southern States will have presented to them the gravest question that can be forced on the consideration of political communities. For my own part, I think they will be blind not to perceive the purposes of this party, and infatuated not to act accordingly."

Mr. REAGAN, of Texas, declared, January 6, 1860:

"Unless there is some power in the free States to arrest this agitation, the only way in which the Union can be maintained is, that we should make a clear and specific indication of our rights, and of the conditions upon which we will remain in political association; and if the free States will not agree to those conditions, then it will be the first step to a separation, and, I trust, a peaceful separation; for, certainly, if this perpetual clamor on a single subject is to be kept up, to arrest our practical legislation, to vitiate all friendly association, and to mar all concord and peace among the people of the Union, the Union, under such circumstances, is not desirable."

The Senator from Georgia [Mr. IVERSON] again, on the 16th of January, said:

"Looking confidently to such results, the Southern States ought not, in my opinion, to consent to remain longer in a Union whose Government would be controlled by a sentiment of hostility to their highest and most important interests."

Mr. GARTRELL, of Georgia, on the 11th of January, said:

"I shall announce the solemn fact, disagreeable though it may be to you as well as to me, to my people as well as to yours, that if this course of aggression shall be continued, the people of the South, of the slaveholding States, will be compelled, by every principle of justice, of honor, and of self-preservation, to 'disrupt every tie that binds them to the Union—peaceably if they can, forcibly if they must."

Mr. PUGH, of Alabama, declared, January 12:

"If, with the character of the Government well defined and the rights and privileges of the parties to the compact clearly asserted by the Democratic party, the Black Republicans get possession of the Government, then the question is fully presented, whether the Southern States will remain in the Union, as subject and degraded colonies, or will they withdraw, and establish a Southern Confederacy of coequal homogeneous sovereigns?

"In my judgment, the latter is the only course compatible with the honor, equality, and safety of the South; and the sooner it is known and acted upon, the better for all parties to the compact."

Who make these threats? Slaveholders and members from slave States. Why do they make them? Because we resist the extension of slavery into all the Territories of the United States. They desire the extension of the institution; we seek, as it has been admitted the founders of the Government did, to restrict it where it is. Here is the question stated by the Hon. Mr. CRAWFORD, of Georgia:

"Sir, this question has resolved itself, at last, into a question of slavery and disunion, or no slavery and Union. My position is taken; that of my constituents is taken. The position of the North is taken, and there is no mistaking that position."

The South, says this honorable member of the House, is for slavery and disunion! They threaten the one, because they cannot extend the other.

Mr. President, in the Southern States, the mails of the Government are opened, documents and letters seized and destroyed by the postmasters. Freemen from the North are insulted, apprehended, beaten, tarred and feathered, imprisoned, and expelled from the State, or hung up without trial and murdered.

This robbery of the mails, and this expulsion of citizens of other States, the subsidized and paid organ of the President approves.

The *Constitution* of Feburary 20th says:

"We maintain the right and policy of Virginia, for example, in seizing documents of a condemned character in the United States post offices within her borders. And as we rejoice to behold abolition preachers, teachers, and peddlers, expelled from the South, so we approve," &c.

Now, Mr. President, what is the interest or power that leads to this robbery and violence? What makes the President, by his organ, thus approve it? The answer is ready and obvious, the slave interest and slave power.

Shall we, then, extend and strengthen that power, which thus openly and defiantly multiplies its acts of violence and wrong, tramples on the Constitution, and bids the Administration approve its misdeeds? Is it not already too strong?

It is the tiger which has scented blood, and which now lashes itself to fury before it fastens its fangs upon its victim. Safety lies in caging the animal, and not permitting him to roam further.

The Senator from Virginia [Mr. HUNTER] said, in his speech a few days since:

"If I am right, Mr. President, we see here a mass of vast and associated interests which mutually contribute to the support of each other, constituting, if I may use the simile, a mighty arch, which, by the concentrated strength and by the mutual support of its parts, is able to sustain such a social superstructure as perhaps is unparalleled in the history of man; and is it not obvious, too, that the very keystone of this arch consists in the black marble cap of African slavery. Knock that out, and the mighty fabric, with all that it upholds, topples and tumbles to its fall."

Mr. President, if this be so, we are committing a great mistake. There now stands in the old Hall of Representatives a female figure of *white* marble. Her eye is elevated, and her attitude unconstrained and easy. In one hand she holds a shield, and in the other a sword. Upon the pedestal is inscribed the irrepressible-conflict word, "Freedom;" and it is designed for the top of the dome of the Capitol. But if the Senator is right, it should not be placed there. It should be broken; and an image should be made of black marble or ebony; upon its hands should be manacles; upon the front, the brand of a slave; and it should be elevated upon the highest point on the nation's Legislative Halls—yea, over the very sittings of the Supreme Court—as an index to all who behold, that the "cap-stone," the "crowning glory" of the mighty fabric of human rights and self-government, is this poor miserable victim of "wrong, cruelty, and oppression"—the African slave!

Has it come to this, then, that our fathers counselled and toiled and fought for the inestimable, inalienable rights of man, and that the highest, most valuable of them all—that without which the others would not be worth preserving, and must perish—is the right to hold a negro in slavery.

But, Mr. President, this is not so. The Senator is not right. Slavery is not the keystone of this arch; it would not fall if it were removed. It may better be compared to an unsteady, rolling cobble-stone admitted into the structure, which causes it sometimes to tremble, but which, skilfully removed, or secured in its place, the whole may stand securely.

Let not, then, the image be broken. Let it rise into its place. Let it surmount the dome of this Capitol. Let it bear the sword and shield. Let the free man look to it with gratitude and mingled shame and admiration; the bondman with hope and faith: and let it symbolize that higher state of civilization and equal self-government, when all nations and all races, each in its proper place, but all free, shall form one mighty, well-adjusted temple, whose crowning glory shall be "equal and exact justice to all men."

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